IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Criminal Appeal No.100-SB of 2002

Date of Decision: September 29, 2010

Sarwan Singh and another .....Appellants

Versus

State of Punjab .....Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.AS Kalra, Advocate with
Ms.Sukhpreet Kaur, Advocate
for the appellants.

Mr.Mehardeep Singh, Deputy Advocate General, Punjab.

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JITENDRA CHAUHAN, J.

1. The appellants were tried by the learned trial Court for the offence punishable under Sections 376/506/34 of the Indian Penal Code for alluring a minor girl i.e. prosecutrix Kelash, taking her to the forest and for committing rape upon her one after the other.

2. The learned trial Court upon appreciation of evidence adduced on record, vide the impugned judgment and order dated 20.12.2001, convicted the accused-appellants for the commission of offence under Sections 363/366-A/376/506 of the Indian Penal Code and sentenced them

to undergo rigorous imprisonment for a period of three years each for the offence under Section 363 of the Indian Penal Code and to pay a fine of Rs.1,000/- each and in default of payment of fine, to undergo further rigorous imprisonment for one month each; to undergo rigorous imprisonment for three years each under Section 366-A of the Indian Penal Code and to pay a fine of Rs.1,000/- each, and in default of payment of fine, to undergo further rigorous imprisonment for one month each; to undergo rigorous imprisonment for seven years each under Section 376 of the Indian Penal Code and to pay a fine of Rs.2,000/- each, and in default of payment of fine, to undergo further rigorous imprisonment for two months each and also to undergo rigorous imprisonment for one year each under Section 506 of the Indian Penal Code. All the sentences were ordered to run concurrently.

3. The present appeal was admitted on 17.1.2002 and the appellants were ordered to be released on bail by this Court vide order dated 27.5.2002.

4. Learned counsel for the appellants does not challenge the judgment/order of conviction/sentence on merits. However, he has prayed for reduction of sentence of the appellants to the period already undergone by them by taking leniency. The appellants are stated to have suffered the agony of protracted trial for about 12 years as the FIR is dated 14.9.1998 and they have not mis-used the concession of bail. Both, the prosecutrix and the appellant, have married and are living happily with their respective families.

5. Learned counsel for the State has submitted that since offence is proved, so no leniency should be shown.

6. I have heard the learned counsel for the parties.

7. Keeping in view the fact that the appellants have suffered the agony of protracted trial for about 12 years, the conviction of the appellants under Sections 363/366-A/376/506 of the Indian Penal Code stands maintained, but the sentence of imprisonment awarded to them is reduced to the period already undergone. However, the sentence of fine of the appellants is enhanced to Rs.25,000/- each besides the fine imposed by the trial Court which shall be deposited by them before the Chief Judicial Magistrate, Ferozepur, within a period of three months from the date of receipt of a certified copy of this order. Out of the amount of enhanced fine of Rs.50,000/-, an amount of Rs.40,000/- shall be paid to the complainant and Rs.10,000/- shall go to the State as litigation expenses.

8. In case of non-payment of amount of enhanced fine, the present appeal shall be deemed to have been dismissed.

9. With the above modification/direction, the present appeal stands disposed of.

10. Since main appeal is disposed of by this order, therefore, misc. application pending, if any, shall also stand disposed of.

(JITENDRA CHAUHAN)
JUDGE

September 29, 2010
SRM

Note: Whether to be referred to reporter ? Yes/No